

AUG 08 2007

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**FEE TRANSMITTAL**  
**For FY 2007**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250

**Complete If Known**

Application Number	10/712,792
Filing Date	11/12/2003
First Named Inventor	Kushner, Robert G.
Examiner Name	Morgan Jr., Jack
Art Unit	3727
Attorney Docket No.	50065.00008

**METHOD OF PAYMENT (check all that apply)**

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

<u>Fee Description</u>				<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>
Each claim over 20 (including Reissues)				50	25
Each independent claim over 3 (including Reissues)				200	100
Multiple dependent claims				360	180
<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	
- 20 or HP = _____ X _____ = _____				<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
HP = highest number of total claims paid for, if greater than 20.					
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>		
- 3 or HP = _____ X _____ = _____					
HP = highest number of independent claims paid for, if greater than 3.					

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Fee: 250

Fees Paid (\$)

250

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 45,215	Telephone 480.203.3235
Name (Print/Type)	Stuart A. Whittington	Date 8/7/07	

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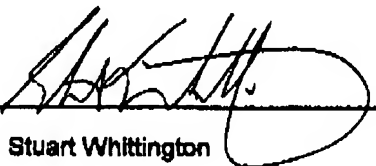
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Date of Transmission:

8/7/2007

By:

  
Stuart Whittington**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Robert Gerald Kushner

Atty. Docket: 50065.00008

Appln. Ser. No.: 10/712,792

Group Art Unit: 3727

Filed: 11/12/2003

Examiner: Morgan Jr., Jack H.

For: PERSONAL ARTICLE HOLDER WITH ACCOMPANYING TOOL

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**BRIEF ON APPEAL**

Pursuant to Appellant's Notice of Appeal filed on May 7, 2007, Appellant presents this  
Brief in appeal of the Final Rejection dated February 7, 2007.

**I. REAL PARTY IN INTEREST.**

Robert Gerald Kushner, Appellant/Appellant, is the real party in interest.

**II. RELATED APPEALS AND INTERFERENCES.**

There are no related appeals or interferences before the Board of Patent Appeals and  
Interferences or related judicial proceedings known to Appellant, the Appellant's legal

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representatives, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**III. STATUS OF CLAIMS.**

Claims 1-5, 7-11, 14 and 17-22 are all the claims pending in the present application. Claims 3-5 are withdrawn from consideration. Claims 1, 2, 7-11, 14 and 17-22 stand finally rejected and are the claims subject to this appeal, which are reproduced in the attached Appendix A.

**IV. STATUS OF AMENDMENTS.**

No amendments to the application have been presented since the final rejection dated February 7, 2007. A response requesting reconsideration of the final rejections was submitted on May 7, 2007 to which an Advisory Action mailed 5/21/2007 indicated was not persuasive in overcoming the final rejection. This Appeal now follows.

**V. SUMMARY OF CLAIMED SUBJECT MATTER.**

Embodiments of Appellant's invention relate to a device for holding personal articles such as eyeglasses to desired surfaces such as the sun visor of an automobile. (Specification, par. 0001, claim 1, Figs. 1-7). Further, Appellant's inventive embodiments related to a device (e.g., 10; Figs. 1-3) which not only holds personal articles but also includes a built in tool (e.g., 26; Fig. 2) or accessory. (Spec. pg. 3, par. 0008).

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According to certain embodiments of Appellant's invention, referring to Figs. 1-4 and independent claims 1, 9 and 17, a holder 10 may include a clamping body including upper arm 20 and lower arm 30 which are connected at one end via a pivot or hinge 40. (Spec. pg. 5, par. 0023). Inner opposing surfaces of upper and lower arms 20, 30 may include cushion members 52, 54 for gently but securely stowing portions of a personal article between them when holder 10 is in a closed position. (Spec. pg. 6, par. 0026).

As recited in claim 9, a top surface of upper arm 20 (opposite the cushion member 52) may include one or more cavities 25 for retaining a tool 26 (for example, a calculator in Figs. 2 & 4). An attachment portion or means such as a spring clip 35 may be attached to a bottom surface of the lower arm 30 (opposite its respective cushion member 54) which may serve to attach holder 10 to a desired surface (e.g., sun visor clip). Additional embodiments and variations are also described.

**VI. GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL.**

The only issues for consideration on this Appeal are:

A. Whether claims 1, 7, 17 and 21 are properly rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent 10226279A to Suzuki et al. (hereafter "Suzuki").;

B. Whether claims 1, 2, 7, 9-11, 14, 17-18 and 20-22 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,728,995 to Ainley et al. (hereinafter "Ainley") in view of U.S. Patent 5,180,133 to Chang;

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C. Whether claim 8 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination cited in Paragraph B (above) in further view of U.S. 6,178,085 to Lueng;

D. Whether claims 1, 2, 7, 9, 11, 14 and 18 properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,681,452 to Holland in view of U.S. Patent 6,101,689 to Jo;

E. Whether claims 10 and 20 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination cited in paragraph D (above) in further view of Ainley (cited in paragraph A above);

F. Whether claim 8 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination Holland and Jo cited in paragraph D (above) in further view of Leung (cited in paragraph C above);

G. Whether claim 19 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Holland, Jo and Ainley cited in paragraph E above in further view of Suzuki (cited in paragraph A above); and

H. Whether claims 19 and 22 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (cited in paragraph A) in further view of Ainley (cited in paragraph B).

## VII. ARGUMENT.

### A. APPELLANT'S CLAIMS ARE NOT ANTICIPATED BY SUZUKI LEGAL STANDARD.

It is well established that a claim is only anticipated under 35 U.S.C. § 102 if each and every feature as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

### ARGUMENT.

In the instant case, the Office Action alleges Suzuki discloses all of the features of Appellant's independent claim 1 which recites:

*A personal article holder comprising:*

*a clamping body having a clamping position and an open position and comprising an upper arm; a lower arm pivotally connected at one end thereof, to a corresponding end of the upper arm such that personal articles may be retained between the upper and lower arm, said clamping body also having a cavity formed therein;*  
*attachment, means connected to the clamping body for attaching the clamping body to a desired surface; and*  
*a tool operative to be removably inserted into said cavity, wherein the clamping body further comprises a cushion member disposed on opposing surfaces of each of the upper and lower arms, wherein the cushion members are operative to secure a personal article there between when the upper and lower arms are in the clamped position..*

Suzuki discloses a combination eyeglass holder and card holder. (See Figs. 1-6 and par.

[0023]). The Office Action alleges that element 20 of Suzuki is analogous to a *tool operative to*

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*be removably inserted into* [the device] *cavity* as claimed in Appellant's claim 1 or Suzuki card holder is analogous to the "*tool securing means*" as alleged recited in Appellant's independent claim 17. Respectfully, Appellant submits that element 20 is not a tool within the context of Appellant's specification, it is a card such as a business card. (Suzuki par. 0004; 0005; 0006; 0014, etc.). Appellant respectfully submits that the Office Action is interpreting its claim limitations with undue breath and in a manner which is inconsistent with how one of ordinary skill in the art would interpret Appellant's claims when read in light of Appellant's disclosure.

The Office is required to interpret claims using the broadest *reasonable* interpretation which is consistent with the interpretation that those skilled in the art would give. *In re Cortright*, 165 F.3d 1353,1359 (Fed. Cir. 1999). Such interpretation must also be consistent with the specification. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969).

In the Advisory Action dated 5/21/2007, the Examiner confirms its interpretation that Suzuki's business card or credit card (or respective holder) is considered to be analogous to Appellant's claims "tool" (or "tool securing means"). Appellant continues to respectfully disagree and assert that the business cards or even gas cards disclosed by Suzuki are analogous to Appellant's claimed "tool".

With respect to claim 17, Appellant submits that the claim language invokes interpretation under 35 U.S.C. 112, sixth paragraph. Accordingly, the "tool securing means" can only be anticipated by Suzuki if the corresponding structure described Appellant's specification and equivalents thereof, are disclosed by Suzuki. *In re Donaldson*, 16 F.3d 1189 (Fed. Cir.

1994) and *In re Dossel*, 115 F.3d 942 (Fed. Cir. 1997). Apart from the fact that the Examiner has not even applied proper Office procedures in interpretation of Appellant's means plus function elements, Appellant respectfully submits that the "tool securing means" structure (e.g., Figs. 3, 5, 6) disclosed in its specification is indisputably different than the card holder disclosed by Suzuki. Furthermore, Suzuki's card holding structure is not functionally equivalent, or even asserted to be, as that disclosed in Appellant's specification.

Lastly, Appellant's independent claim 1 recites the "clamping body [comprising an upper arm pivotally connected at one end thereof to a lower arm to retain personal articles there between] also having a cavity formed therein." To the extent Appellant understands the Suzuki reference, there is no cavity formed in a clamping body (e.g., formed by Suzuki middle upper case 12 and glasses clip 13) which holds spectacles (personal articles). In fact, it appears that Suzuki includes an entirely separate arm member (i.e., lower case 11) to hold its cards

Because Suzuki fails to disclose Appellant's claimed *cavity, a tool operative to be inserted into the cavity, or tool securing means* it cannot anticipate either of Appellant's independent claims 1 and 17 (or the claims which depend there from). In view of the foregoing, the Board is respectfully requested to overturn the 102 rejection based on Suzuki.



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**B-H. APPELLANT'S CLAIMS ARE PATENTABLE OVER THE CITED PRIOR  
ART COMBINATIONS**

**LEGAL STANDARD**

*Prima facie* obviousness is only established when three basic criteria are met. First, there must be some reasoning, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaech*, 947 F.2d 488 (Fed. Cir. 1991) (MPEP 2144).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some motivation to do so. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). A patent is not proved obvious merely by demonstrating that each element was, independently, known in the prior art. *KSR Intn'l Co. v. Teleflex Inc.*, 550 U.S. (No. 04-1350) (2007).

**ARGUMENT**

Appellant respectfully submits that none of the prior art rejections of records establish *prima facie* obviousness because (1) there is no proper objective reason for combining references

as proposed; and (2) even when combining the references as suggested in the Office Action, the limitations present in Appellant's independent claims are not taught or suggested.

**THERE IS NO OBJECTIVE REASON TO COMBINE/MODIFY AINLEY AND CHANG**

In first of the 103 rejections based on Ainley as a primary reference, the Office Action relies on Ainley to disclose the majority of Appellant's independent claim limitations (e.g., claims 1, 9 and 17) with the exception of *a tool operative to be removeably inserted into a cavity* (claims 1 and 9), or *tool securing means disposed on a surface of said clamping means* (claim 17).

The Office Action then relies solely on Chang, which discloses a clip board having a removable calculator) to make up for this notable deficiency alleging "[i]t would have been obvious to a person having ordinary skill in the art.... to configure the recess (which serves no purpose) of Ainley et al. in such a manner to be able to removably insert Chang's calculator in order to provide a convenient mounting surface for the calculator." Appellant respectfully disagrees and submits that there is no proper motivation for combining/modifying Ainley with Chang as suggested as suggested in the Office Action and thus all rejections based upon this flawed reasoning are improper and should be withdrawn on this basis alone. The Office Action alleges it would be obvious for the skilled artisan to modify Ainley with the calculator of Chang "in order to provide a convenient mounting surface for the calculator." (8/17/06 Office Action pg. 8 and 2/7/07 Final Office Action pg. 3). Appellant continues to believe that this alleged

motivation to combine references is fundamentally flawed. First, since Chang already discloses "a convenient mounting surface for the calculator" for the motivation suggested in the Office Action is entirely lacking any objective reason whatsoever as to why the skilled artisan would bother to modify the Spectacles Caddy 10 disclosed by Ainley with the clipboard including calculator disclosed by Chang.

It is apparent to the skilled artisan that a calculator could be useful in combination with a clip board. However, because the Office Action has not set forth any objective reasoning at all why the skilled artisan would even want a calculator to be included with the spectacles caddy 10 disclosed by Ainley, a *prima facie* case of obviousness has not been established. Thus the rejection of Appellant's claims based on the combination of Ainley and Chang is believed to be insufficient on its face.

Additionally, Appellant respectfully submits there is in fact no proper motivation why the skilled artisan would combine/modify Ainley with Chang. Ainley indisputably discloses a caddy designed for holding various types of spectacles. (Col. 1, ll. 1-5; 19-22; 36-37, etc.). By way of contrast, Chang discloses a clip board for holding paper. While it is apparent why a calculator would be useful in conjunction with a clipboard and paper, there is no apparent reason why a spectacles caddy should include a calculator or integrated removable tool/accessory.

Because the proposed motivation for combining/modifying Ainley and Chang is not present in either of the cited references, and because no objective reasoning exists for combining these references (or even has one been alleged), Appellant submits that *prima facie* obviousness

has not been established. The remaining secondary reference (Leung) is not addressed since deficiencies of the Ainley and Chang combination render these rejections moot. Because there is no proper motivation to combine Ainley and Chang, the rejections based on these references are improper and should be withdrawn.

**THE COMBINATIONS BASED ON AINLEY AND CHANG FAIL TO TEACH OR SUGGEST APPELLANT'S CLAIM LIMITATIONS.**

Lastly, the Office Action alleges that Ainley discloses a "cavity" formed in the clamping body which could be configured or modified to hold the calculator of Chang (8/17/06 Office Action pg. 7; 2/7/07 Final Office Action pg. ). The 2/7/02 Final Office Action describes it as an "un-numbered recess in the top middle face of 3..." Because it is not numbered or referenced in the cited patent, Appellant can only assume the slight circular recess shown in the figures of Ainley and referenced by the Office Action does not appear to serve any utilitarian purpose and therefore is merely an ornamental feature without any purpose. Thus this alleged "cavity" disclosed by Ainley, even if combined with the calculator of Chang, is NOT a cavity into which a tool (i.e., Chang's calculator) could be insertably removed. Moreover, "the un-numbered recess" cannot be considered *a tool securing means* as claimed in Appellant's independent claim 17. In fact, by the Office Action's own statement, the "cavity" of Ainley would still have to be modified, if even possible, to receive Chang's calculator. While the Chang clipboard may include such a cavity, Chang's clip omits several other elements expressly claimed by Appellant and thus even when Ainley is modified with Chang as proposed in the Office Action, Appellant's claim limitations are not disclosed or suggested.

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For all the foregoing reasons, Appellant respectfully submits all the pending claims are patentable over the combinations based on Ainley and Chang and requests the Board to overturn the §103 rejections based on the combination of Ainley and Chang (paragraphs B & C above).

**APPELLANT'S CLAIMS ARE PATENTABLE OVER THE COMBINATIONS  
BASED ON HOLLAND AND JO.**

The Office Action rejects several of Appellant's claims under 35 U.S.C 103 rejections based on the combination of Holland and Jo (paragraphs D-G above). The Office Action alleges Holland discloses the limitations of the rejected claims with the exception of cushion members disposed in the clamp. To make up for this deficiency, the Office Action relies on Jo alleging "it would have been obvious...to make the holder of Holland with the cushions and attachment clip of Jo in order to securely grip the item being held without damaging it, as well as to attach the object holder to the clothing of a user."

In rebuttal, Appellant respectfully submits that there is no objective reason to combine Holland and Jo as proposed. Holland, similar to previously cited Chang, appears directed toward use with a clip board (See Fig. 8) and is used for holding paper. Appellant respectfully submits that first, there is no reason to suspect that gripping an item using the clip shown by Holland (Fig. 4) would damage an item being held (i.e., paper). Second, Holland already discloses a means for potential hanging clamping apparatus 10 (via base member 12) using an aperture 29 and corresponding fastener or an adhesive or magnet (col. 3, ll. 38-49).

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Respectfully, the proposed combination of these references, as with those previously proposed, is transparently derived in the piecemeal attempt to reconstruct Appellant's claims using the impermissible hindsight of Appellant's disclosure as a guide. As is well established from *Mills* (cited above) simply because a reference can be modified to meet the limitations of an Appellant's invention does not render the invention obvious unless there is some objective reason to do so. Appellant respectfully submits that since there is no objective reason to include the cushion members or attachment clip of Jo in the clamping apparatus with removably assembly of Holland (and certainly not placed in the specific manner claimed by Appellant), *prima facie* obviousness has not been established. For this reason alone, all 103 rejections based on the proposed combination of Holland and Jo is believed to be improper and should be withdrawn.

Even assuming it would be proper to modify Holland with the teachings of Jo as proposed in the Office Action (*arguendo*), these references taken alone or in combination, fail to teach or suggest the limitations present in Appellant's independent claims 1 or 9 or the claims which depend there from. For example, claim 1 recites *a lower arm pivotally connected at one end thereof, to a corresponding end of the upper arm*. By contrast, Holland, which is cited as disclosing an analogous clamping body appears to disclose a pivot mechanism (e.g., hinges 18) which are connected in a middle area (see Fig. 4) as opposed on corresponding ends as recited by Appellant. The Office Action alleges that these claimed "ends" are analogous to the bottom surface of the upper arm and top surface of the bottom arm. However once again, the Office

appears to be interpreting Appellant's claims incorrectly and/or with undue breath. The skilled artisan would recognize that the opposing surfaces of the Holland's clamp 10 are not "ends" pivotally connected.

Because Holland fails to teach or suggest at least the claimed upper and lower arm members pivotally connected on corresponding ends, Holland cannot disclose the clamping body claimed by Appellant in claim 1 or related limitations in claim 9 (or the claims which depend therefrom) and as alleged in the 2/7/07 Final Office Action. For all the foregoing reasons, Appellant respectfully requests the Board to overturn all the 103 rejections based on the combination of Holland and Jo (i.e., paragraphs D-G above).

**APPELLANT'S CLAIMS ARE PATENTABLE OVER THE COMBINATION OF SUZUKI AND AINLEY.**

The Office Action alleges that Suzuki (JP 10226279 cited above in respect to the 102(b) rejections of Appellant's claims) discloses all the limitations of claims 19 and 20 with the exception of clamping means comprising an upper and lower arm formed of an injection molded plastic. The Office Action relies on Ainley to make up for this deficiency. Appellant respectfully submits that even assuming it were proper to combine these references as suggested, Suzuki and Ainley, taken alone or in combination, fail to teach or suggest the limitations recited in Appellant's claims 19 and 20.

As discussed previously with respect to the rejection under 35 U.S.C. § 102, Suzuki discloses a dual holder for 1 for holding cards and glasses. There is no tool or tool securing

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means disclosed or suggested by Suzuki as implied by the Final Office Action dated 2/7/07. Accordingly, Suzuki fails to disclose or suggest the limitations present in claims 19 and 20 by virtue of their dependency on independent claims 1 or 17:

- *a tool operative to be removably inserted into said cavity* (as recited in claim 1 from which claim 19 depends)

- *tool securing means disposed on a surface of said clamping means for securing a provided tool to said clamping means* (as recited in claim 17 from which claim 22 depends)

Because Suzuki and Ainley, taken alone or in combination, fail to teach or suggest these features, *prima facie* obviousness has not been established with respect to these claims. For all the foregoing reasons, Appellant respectfully submits the 102 and 103 rejections of record should be withdrawn and hereby requests such action.




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**VIII. CONCLUSION.**

It is respectfully submitted that in view of the foregoing all of the pending claims are patentable over the cited prior art and the Board is respectfully requested to overturn all the rejections of record and allow this application to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stuart A. Whittington', is written over a horizontal line.

Stuart A. Whittington  
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Date: August 7, 2007

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**APPENDIX A**  
**(Claims on Appeal)**

1. A personal article holder comprising:

a clamping body having a clamping position and an open position and comprising an upper arm; a lower arm pivotally connected at one end thereof, to a corresponding end of the upper arm such that personal articles may be retained between the upper and lower arm, said clamping body also having a cavity formed therein;

attachment means connected to the clamping body for attaching the clamping body to a desired surface; and

a tool operative to be removably inserted into said cavity, wherein the clamping body further comprises a cushion member disposed on opposing surfaces of each of the upper and lower arms, wherein the cushion members are operative to secure a personal article there between when the upper and lower arms are in the clamped position.

2. The personal article holder of claim 1 wherein said tool comprises a calculator.

3. **(Withdrawn)** The personal article holder of claim 1 wherein said tool comprises a screwdriver.

4. **(Withdrawn)** The personal article holder of claim 1 wherein said tool comprises a writing surface and a writing utensil.

5. **(Withdrawn)** The personal article holder of claim 1 wherein said tool comprises an eyeglass cleaning kit.

6. **(Cancelled)**

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**APPENDIX A**  
**(Claims on Appeal)**

7. The personal article holder of claim 2 wherein the attachment means comprises a clip for attaching the clamping body to the desired surface.

8. The personal article holder of claim 2 wherein the calculator comprises a keypad a display and a rotatable panel, said rotatable panel operative in a first position to protect at least one of said keypad and display and operative in a second position to support said calculator in a substantially upright position.

9. A holder for supporting and securing objects comprising:

an upper arm member having a first cushion disposed on a bottom side thereof and a cavity disposed on a top side thereof;

a lower arm member including a second cushion member, the lower arm member having side thereof hingedly attached to a corresponding side of the upper arm member such that the upper and lower arm members form a clamping body whereby the first and second cushions face one another to secure an article there between when said upper and lower arm members are in a closed position;

a tool removably insertable into said cavity; and

an attachment portion disposed on a surface of the lower arm member opposite the second cushion member, the attachment portion for attaching the holder to a desired surface.

10. The holder of claim 9 wherein said upper and lower arm members are at least partially composed of an injection molded plastic.

**(Claims on Appeal)**

11. The holder of claim 9 wherein said tool comprises one selected from the group consisting of a calculator, a screwdriver, an eyeglass cleaning kit and a writing utensil and paper.

12. (Cancelled)

13. (Cancelled)

14. The holder of claim 11 wherein the attachment portion comprises a clip.

15. (Cancelled).

16. (Cancelled).

17. A holder of personal articles comprising:

clamping means for clamping at least a portion of a personal article in a secure position, the clamping means including clasp means for securing the clamping means in a clamped position and cushion means for gently and securely grasping the portion of the personal article when the clamping means is in the clamped position;

attachment means for attaching the clamping means to a desired surface; and

tool securing means disposed on a surface of said clamping means for securing a provided tool to said clamping means.

18. The personal article holder of claim 1 wherein the attachment means comprises a clip coupled to the lower arm and wherein the cavity is formed in the upper arm.

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**APPENDIX A**  
**(Claims on Appeal)**

19. The personal article holder of claim 1 wherein the upper and lower arms are formed in an injection mold using an Acrylonitrile-Butadiene-Styrene (ABS) plastic material.

20. The holder of claim 10 wherein the tool comprises a calculator and wherein the cavity is formed during injection molding as a recess to accommodate a shape of the calculator.

21. The holder of claim 17 wherein the attachment means comprise a clip and wherein the tool securing means comprises a recess dimensioned to accommodate the provided tool.

22. The holder of claim 17 wherein the clamping means comprises an upper arm and a lower arm formed of injection molded plastic.

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**APPENDIX B**  
**(Evidence Appendix)**

There is no additional evidence relied upon in this Appeal.

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**APPENDIX C**  
**(Related Proceedings Appendix)**

There are no proceedings or decisions related to this Appeal.